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Question of the Falkland Islands (Malvinas)

Letter dated 28 May 2013 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

In accordance with instructions received from the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to refer to the letter dated 9 April from the Permanent Representative of Argentina to the United Nations (A/67/832), circulated in reply to my letter dated 17 January 2013 (A/67/703).

The United Kingdom of Great Britain and Northern Ireland once again recalls its aforementioned letter to the Secretary-General and the letter of 27 January 2012 (A/66/677), which categorically stated that the historical facts and legal position on this issue are clear. British sovereignty over the Falkland Islands dates back to 1765. This was some years before the Republic of Argentina even existed. The United Kingdom established its first settlement on the uninhabited islands in 1766.

The Republic of Argentina refers to the 1833 act of usurpation which it alleges the British Government committed. Once again, the British Government must reiterate the historical facts. In 1832 an Argentine military garrison was sent to the Falkland Islands in an attempt to impose Argentine sovereignty over British sovereign territory. The United Kingdom immediately protested and quickly expelled the Argentine military garrison, on 3 January 1833. The civilian population, who had previously sought and received British permission to reside on the Islands, was encouraged to remain. The large majority voluntarily chose to do so. The United Kingdom has never implanted any civilian population; all civilians have voluntarily migrated to, or been born in, the Falkland Islands. Civilian migrants voluntarily settled on the Islands from a large number of countries, as they did throughout the whole Americas region, including Argentina, during the nineteenth century. Many of today's Islanders can trace their roots on the Falklands back eight or nine generations.

Fundamentally, the Republic of Argentina bases its claim to the Falkland Islands on the principle of disruption to its territorial integrity. This claim is without foundation, as the Islands have never legitimately been administered by, or formed part of, the sovereign territory of the Republic of Argentina. The 32 Spanish governors which Argentina argue held jurisdiction over the Falkland Islands from 1774 to 1811 (and therefore demonstrate the exercise of Argentine sovereignty) did not settle the Islands or govern a population of civilians. Nor did they refute the

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British claim of sovereignty dating to 1765. The historical record shows that these individuals performed the function of commanders of the penal colony the Spanish had established on the Islands. As such, their authority was over the prisoners and their guards. At this time no other population, apart from some (mixed nationalities) whalers, fell under their jurisdiction.

In their letter dated 9 April, the Republic of Argentina mentions the treaty on friendship and navigation between the Argentine Republic and the United Kingdom, concluded in 1825, but does not also refer to the Convention of Settlement, ratified in 1850 by the British Government and the Republic of Argentina which comprehensively settled all existing differences and established a "perfect friendship" between the two States. Subsequent to this ratification, the Republic of Argentina submitted only one official diplomatic protest regarding the Falkland Islands during the following 90 years. This shows that the matter had been settled to the satisfaction of the Argentine Government at that time.

Differences of historical opinion aside, the United Kingdom Government attaches great importance to the principle of self-determination, as set out in Article 1, paragraph 2, of the Charter of the United Nations and common article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. That principle underlies our position on the Falkland Islands and the strong belief that only the Islanders themselves can decide their political future. A total of 99.8 per cent of those Falkland Islanders who voted in the March 2013 referendum decided to maintain the current constitutional arrangement between the United Kingdom of Great Britain and Northern Ireland and the Falkland Islands Government. This result is a clear, comprehensive and legitimate expression of the wishes of the people of the Falkland Islands.

The Government of Argentina continues to deny that the fundamental human right of self-determination applies to the people of the Falkland Islands, and also to act in ways which are contrary to the principles set out in the Charter of the United Nations. The founding principles of the Charter and General Assembly resolution 1514 (XV) are clear on the obligation to respect the principle of self-determination for all peoples. General Assembly resolution 1514 (XV) states that "All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". This right is not qualified, and attempts to qualify it within the United Nations have been repeatedly rejected.

Neither the Charter of the United Nations nor General Assembly resolution 1514 (XV) support the concept of two large sovereign States negotiating away the right of self-determination of the people of any territory. In 1970 the General Assembly adopted resolution 2625 (XXV), in which it is stated that the emergence into any political status, as long as it is freely determined by a people, can be considered a way of implementing the right of self-determination by that people. There is no doubt that the Falkland Islanders have clearly expressed their desire to maintain their current political status as understood by the terms of this resolution. Furthermore, the United Kingdom firmly believes that it is not credible to view this issue as primarily a dispute between the United Kingdom and Argentina, over and above the wishes of the Falkland Islanders.

I should be grateful if you would have the text of the present letter circulated as a document of the General Assembly, under agenda item 45.

(*Signed*) Mark Lyall **Grant**